

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: DIGITEK® PRODUCTS LIABILITY
LITIGATION

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER #65

(Re: Limited Relief from PTO #62 to file
“Defendants’ Motion for Entry of a Scheduling Order”)

On August 12, 2010, this Court entered PTO #62 staying all discovery, motion practice, and scheduled hearings until October 26, 2010 to facilitate settlement negotiations. Defendants and Negotiating Plaintiffs’ Counsel executed the Master Settlement Agreement (the “MSA”) on September 1, 2010. The MSA establishes an optional settlement program for cases pending in the MDL as of 11:59 p.m. on September 1, 2010; claims subject to tolling agreements; and cases filed in state courts involving Digitek®. In particular, the MSA allows cases pending in the MDL as of 11:59 p.m. on September 1, 2010 to opt out of the MSA on or before 11:59 p.m. on October 15, 2010. See also PTO #64. Plaintiffs who opt out of the MSA will continue to prosecute their cases in the MDL.

In consideration of the foregoing, this Court hereby lifts the stay established by PTO #62 for the limited purpose of allowing Defendants to file “Defendants’ Motion for Entry of a Scheduling Order,” attached to “Defendants’ Motion to Lift PTO #62 for Specific Consideration of Defendants’ Motion for Entry of a Scheduling Order” as Attachment A, seeking the entry of a scheduling order before October 15, 2010, which will govern the prosecution of the remaining cases.

It is hereby ordered that “Defendants’ Motion for Entry of a Scheduling Order” is deemed FILED as of the entry of this PTO. PTO #62 otherwise remains in full force and effect.

The Clerk is directed to file this Order in 2:08-md-1968 which shall apply to each member Digitek[®]-related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:09-cv-00757. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court’s website at www.wvsd.uscourts.gov.

ENTER: _____

Judge Joseph R. Goodwin, Chief Judge